

COMMONWEALTH OF PENNSYLVANIA



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August 2, 2017

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

RE: Joint Petition for Generic Investigation or
Rulemaking Regarding "Gas-On-Gas" Competition
Between Jurisdictional Natural Gas Distribution
Companies
Docket No. P-2011-2277868

Generic Investigation Regarding Gas-on-Gas
Competition Between Jurisdictional Natural Gas
Distribution Companies
Docket No. I-2012-2320323

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Darryl A. Lawrence", written over a horizontal line.

Darryl A. Lawrence
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Enclosures

cc: Hon. Elizabeth H. Barnes, ALJ
Certificate of Service

*237904

CERTIFICATE OF SERVICE

Re: Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-On-Gas"
Competition Between Jurisdictional Natural Gas Distribution Companies
Docket No. P-2011-2277868

Generic Investigation Regarding Gas-on-Gas Competition Between Jurisdictional Natural
Gas Distribution Companies
Docket No. I-2012-2320323

I hereby certify that I have this day served a true copy of the foregoing document,
the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in
accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in
the manner and upon the persons listed below:

Dated this 2nd day of August 2017.

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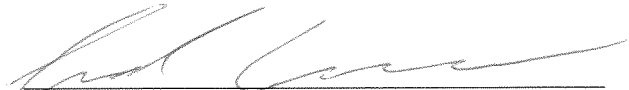
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-On-Gas" Competition Between Jurisdictional Natural Gas Distribution Companies	:	
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Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies	:	
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	:	I-2012-2320323
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COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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DATED: August 2, 2017

I. PROCEDURAL HISTORY

On December 8, 2011, Peoples, Peoples TWP, OCA, I&E, and OSBA filed a “Joint Petition Requesting that the Pennsylvania Public Utility Commission Institute a Generic Investigation or Rulemaking Concerning Gas on Gas Competition Between Natural Gas Distribution Companies.” Joint Petition. On December 28, 2011, the Industrial Energy Consumers of Pennsylvania (IECPA or Industrials) filed an Answer to the Joint Petition, which did not oppose the request for the institution of a generic investigation. On March 19, 2012, pursuant to its settlement agreement at Docket Number R-2010-2215623, Columbia Gas of Pennsylvania (Columbia) submitted a Petition to Intervene.

On July 25, 2012, the Commission issued a Secretarial Letter granting the Joint Petition and provided that “the issues related to a NGDC’s flexing of distribution rates to meet the ratemaking proceedings should be resolved through a generic investigation.” The Investigation was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge Elizabeth Barnes (Judge Barnes). In the weeks following the issuance of the July 25 Secretarial Letter, Petitions to Intervene were submitted by PECO Energy Company (PECO), Equitable Gas Company LLC (Equitable), the Industrial Energy Consumers of Pennsylvania (IECPA), UGI Distribution Companies (UGI), the Penn State University (Penn State) and National Fuel Gas Distribution Corporation (NFGD). Subsequently, Judge Barnes held a prehearing conference where a procedural schedule was established.

In addition, Judge Barnes ultimately set out the specific issues to be investigated, as follows: (1) the current extent and nature of gas-on-gas rate discounting, in terms of number of customers and load by rate class, geographical regions affected, and NGDCs involved; (2) whether discounting rates for certain customers to meet competition from other NGDCs is

appropriate; (3) in the event the Commission determines that discounting rates is appropriate what types of rate discounting should be permitted and under what circumstances, and how should the cost of the discounts be absorbed and/or allocated; and (4) if the Commission determines that discounting rates is not appropriate, how should the existing discounting policies and practices be phased out or eliminated.

On June 24, 2014, the Office of Administrative Law Judge issued the Recommended Decision of Judge Barnes in this matter. Judge Barnes made a primary recommendation that the Commission end gas-on-gas rate discounting completely by December 31, 2018. Judge Barnes made an alternative recommendation that should the Commission not adopt her primary recommendation, the Commission should adopt Peoples Compromise Proposal (Peoples Proposal). In either case, Judge Barnes recommended that the Commission establish either a working group or a collaborative to assist in carrying out the Commission's final determination as to practical and procedural matters.

On May 4, 2017, the Commission issued its Opinion and Order (Order) in this matter. The Order provided that gas-on-gas competition should be allowed to continue, in a limited fashion. Specifically, the "flex" rates would have a price floor established that would be the lowest tariff rate available to a gas-on-gas customer. Further, the affected NGDCs (Peoples, Peoples-Equitale, Peoples TWP and Columbia) were directed to develop proposed tariff provisions in order for a uniform tariff to be applied across these companies for the provision of gas-on-gas service. Order at 51.

The Order also sought comments as to a series of questions that the Commission seeks further information on relating to the uniform tariff provisions. Order at 55-57. The Order

further specified that comments would be due in 90 days from the Order entry date, or on or before August 2, 2017. In accord with the Order, the OCA provides the following.

II. COMMENTS

A. Introduction.

The OCA appreciates the opportunity to provide comments on this important matter.¹ As the Commission has recognized through its Order, the prevailing practice of providing flex rates to certain large C&I customers has resulted in a continuing cost shift of tens of millions of dollars to other captive ratepayers. Order at 52. As outlined in the Order, the proposed solution to this unrestrained level of flex rates is to create a price floor and uniform tariff provisions as to how this limited practice of gas-on-gas discounting will be carried forward. To that end, the OCA submits that the Commission's continuing inquiry into this matter and the call for additional comments is a reasonable next step in dealing with this complex matter.

In the OCA's view, while not the outcome that the OCA and others advocated for, it is understood and appreciated that the Order sought to provide a reasonable balance of stakeholder interests. That said, it should be recognized that the continued provision of flex rates perpetuates a scenario of the "haves" and "have nots", solely based on geographic locale. Accordingly, the additional details as to the continued provision of these flex rates must be carefully considered.²

¹ The OCA's witness in this matter is Mr. Glenn A. Watkins. Mr. Watkins is a Principal and Senior Economist with Technical Associates, Inc., an economics and financial consulting firm. Mr. Watkins has conducted marginal and embedded cost of service, rate design, cost of capital, revenue requirement, and load forecasting studies involving numerous electric, gas, water/wastewater, and telephone utilities, and has provided expert testimony in Alabama, Arizona, Georgia, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Vermont, Virginia, South Carolina, Washington, and West Virginia. In addition to filing testimony in this matter, Mr. Watkins has also assisted the OCA in the creation of these Comments.

² As the OCA discussed in its Main Brief in this matter, it is not only the case that non-discount commercial [industrial] customers are at a disadvantage as to competitors that do receive a gas-on-gas discount, but the non-discounted commercial customers subsidize the discount just as the residential customers do. The creation of a price floor will help to narrow this potential market distortion, but the real economic impacts should not be overlooked as this matter continues to a final resolution.

In response to the specific questions posed, the OCA has several preliminary recommendations, as will be discussed further in the following section. In brief here, flex rates should only be offered to the customer classes currently receiving such rates. The establishment of minimum consumption levels would seem to be unnecessary, although, as with other areas of this inquiry the OCA will review other party proposals and reserves the right to respond accordingly in the Reply Comments phase. New customers locating in a gas-on-gas area should be given the ability to pick the utility of their choice, but not added to the ranks of customers who currently have the option of flex rates. As to contract duration, there must be a mechanism to adjust the prevailing “floor” price as rates are adjusted in subsequent base rate cases.

The Order provides a general framework for the continuation of gas-on-gas competition, within controlled parameters. These parameters, however, should provide for a “preservation” of these activities on a limited basis rather than an expansion of this controversial practice. The OCA looks forward to working with the Commission and the other parties to achieve a reasonable resolution for all affected stakeholders.

B. Responses To Questions Posed.

The Order provides a series of questions as to potential tariff provisions that the Commission seeks additional input on. The Order also provides the ability for commentators to offer any other recommendations on this matter. Order at 55-56. The OCA provides the following responses to the Commission’s questions:

- Which customer classes should be offered gas-on-gas flex rates?

Only the customer classes currently receiving flex rates should be considered for future flex rate offerings. To be more specific, the OCA submits that only customers within these classes that have the ability to physically connect to more than one of the NGDCs that could offer flex rates should be considered for future flex rate contracts.

- Should uniform minimum consumption thresholds be established?

The OCA sees no reason to establish minimum consumption levels at this time. Consistent with its Comments here, the OCA submits that the Commission's Order provides a reasonable path forward to deal with the significantly reduced number of gas-on-gas customers without causing unreasonable economic harm to non-participating ratepayers. That said, the focus should be on managing these remaining gas-on-gas customers and not seeking to add new customers to their ranks. As such, the establishment of minimum consumption levels would appear unnecessary.

- Should new customers locating in overlapping service areas be offered gas-on-gas flex rates or should these rates be limited to existing customers being served under gas-on-gas flex rate contracts?

New customers starting service in a location where connection to more than one NGDC is possible should have a one-time opportunity to pick their preferred distribution company. These customers, however, should not be added to the ranks of current gas-on-gas flex rate customers. The OCA submits that such a practice is consistent with the Order, that being a reasonable process to preserve some level of gas-on-gas competition for those customers already engaged in it.

- What should be the criteria and associated documentation for customers to demonstrate

that they are capable of receiving service from another NGDC?

Customers should have the obligation to demonstrate that they are eligible to participate in gas-on-gas competition. The OCA submits that customers could make the required showing in at least three separate ways: (1) the customer is currently a party to a flex-rate contract; (2) the customer has been a flex rate customer in the past; or (3) the customer is able to physically connect to more than one of the affected NGDCs.³

- Should there be a limit on the duration of contracts between gas-on-gas flex rate customers and NGDCs?

There is a concern here that if the “floor” price is being established as the lowest tariffed rate available to that customer from the potential NGDCs that the customer could physically connect to, such tariffed rates will inevitably change as general base rate cases are decided. For example, a customer could physically be connected to Columbia’s system but also have reasonable connection possibilities to either Peoples or Peoples-Equitable. Assume also that hypothetical distribution rates are Columbia \$2.00, Peoples \$2.10 and Peoples-Equitable \$1.90. If this customer enters into a five-year contract with Columbia at the \$1.90 rate, what happens when Peoples-Equitable files a general rate case in three years and their distribution rate now rises to \$2.20?

The OCA submits that several potential solutions exist. The OCA would recommend that contracts could have a clause to adjust the price in order to maintain what is then the prevailing “floor” price if the overlapping NGDC rates change. Contracts could also automatically terminate upon the entry of new rates that would cause the existing contract to be “out of

³ As provided here, the OCA submits that new customers would not be eligible for flex rate offerings. The OCA views the process and guidelines here as a “legacy” program designed to preserve this option for existing customers rather than a tool for marketing to “new” customers.

market.” In the OCA’s view, the main point here is that long-term contracts should not be used as a way to avoid the prevailing market floor price.

C. Conclusion.

The OCA submits that a manageable process for the continuation of gas-on-gas competition should be attainable based on the framework set out in the Order. The goal should be maintaining this activity under more careful and concise guidelines that limits cross subsidization. In addition, however, it should be recognized that the expansion or long-term continuation of such practices is likely not in the public interest.

III. CONCLUSION

The Office of Consumer Advocate appreciates the opportunity to provide Comments on this important matter. The OCA looks forward to a continuing discussion with the parties and the Commission as it reaches its ultimate resolution of all issues raised by the Investigation.

Respectfully Submitted,



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Dated: August 2, 2017
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